



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Zestron Corporation
FOR
Zestron Americas
EPA ID No. VAR000514133**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Zestron Corporation, regarding the Zestron Americas facility, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" or "Site" means the Zestron Americas Facility located at 11285 Assett Loop in Manassas, Prince William County, Virginia.
6. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
7. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
8. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
10. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
12. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
13. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
14. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

18. "VSQG" means a very small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-81-10.
19. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
20. "Zestron Corporation" means Zestron Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Zestron Corporation is a "person" within the meaning of Va. Code § 10.1-1400.

SECTION C: Findings of Fact and Conclusions of Law

1. Zestron Corporation owns and operates the Facility in Prince William County, Virginia. The Facility formulates and manufactures water-based cleaning solutions to clean circuit boards. Used solutions are also tested for quality control, and samples of used solutions from clients are tested to ensure proper cleaning. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. Zestron Corporation submitted a RCRA Subtitle C Site Identification Form (received February 20, 2007) that gave notice of regulated waste activity at the Facility as an SQG of hazardous waste. Zestron Corporation was issued EPA ID No. VAR000514133 for the Facility. As a Small Quantity Handler, Zestron Corporation was not required to give notice as a handler of Universal Waste at the Facility.
3. At the Facility, Zestron Corporation generates isopropanol/water mixtures which is a solid waste. The waste isopropanol/water mixture is also an ignitable characteristic waste (D001) as described in 40 CFR § 261.21. Zestron Corporation also generates solid wastes like circuit boards, wipes, and PPE, at the Facility. These wastes are regulated hazardous wastes containing lead (D008), as described in 40 CFR § 261.24. These hazardous wastes are accumulated in containers at the Facility after its generation, before being sent offsite for disposal.
4. Client-sample wastes, in-line cleaner waste, batch cleaner waste, and stencil cleaner wastes are generated at the Facility, and were not determined to be hazardous or non-hazardous at the time of the Facility's inspection; these wastes were put into an evaporator, and the sludge of this process was sent offsite for disposal as a D008 hazardous waste. Universal waste lamps are generated onsite and accumulated in a container inside a storage closet until shipped for disposal.
5. On February 21, 2019, and again on March 22, 2019, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

- a. Facility personnel did not make a hazardous waste determination for the quality control bath wastes (in-line, batch, and stencil) generated at the Application Technology Lab, nor for the client samples disposed of following testing. The same waste determination issue was cited in a November 16, 2007 Warning Letter to the Facility. (40 CFR § 262.11)
- b. The wastes generated in Observation 1 (above) were treated on site in an evaporator to reduce the volume of waste. The facility is thermally treating potential hazardous waste on site without a permit. (40 CFR § 270.1(c))
- c. Facility personnel did not provide documentation or indicate that they counted hazardous wastes generated each month to determine their generator category. (40 CFR § 262.13)
- d. Review of the hazardous waste manifests provided by the facility from February 2015 through February 2019 revealed that pick-ups of hazardous waste were completed: April 10, 2015; June 6, 2016; April 17, 2017; January 3, 2018; July 12, 2018; and December 3, 2018. Hazardous wastes were stored at the facility for more than the 180/270-day limit during 2015, 2016, and 2017 without a permit. (40 CFR § 262.16)
- e. The wastes generated in Observation 1 (above) are transferred to the evaporator, which is thus considered to be a hazardous waste tank. According to a review of manifests and waste profiles provided, the sludge generated in this unit is a hazardous waste. This tank was not labeled with the words "hazardous waste," and the hazards of the waste, as required. Additionally, the Facility did not maintain an inventory or generation records as required for hazardous waste tanks. (40 CFR § 262.16(b)(6))
- f. Satellite containers were not labeled with the words "hazardous waste," and the hazards of the waste, as required. Additionally, the hazardous waste sludge drum stored adjacent to the evaporator unit was not labeled, and was identified by facility personnel as a non-hazardous waste during the inspection. A similar labeling issue was cited in a November 16, 2007, warning letter to the facility. (40 CFR § 262.15(a)(5))
- g. The facility did not make arrangements with local authorities and local responders as required. A similar emergency arrangement issue was cited in a November 16, 2007, warning letter to the Facility. (40 CFR § 262.16(b)(8))
- h. Within the tool closet in the warehouse area, several used fluorescent lamps were observed stored inside an open box. Universal wastes are not being properly maintained in packaging. (40 CFR § 273.13(d)(1))
- i. The used lamp box was not labeled with the words "Universal Waste – Lamps" or other appropriate labeling. (40 CFR § 273.14)
- j. The used lamp box displayed no discernable label indicating the accumulation date, and the facility provided no other method or procedure to demonstrate the length of time the universal waste had been accumulated. (40 CFR § 273.15(c))
- k. During the inspection, Zestron management indicated that no training on the handling of universal waste was provided to maintenance staff. (40 CFR § 273.16)

6. 40 CFR § 262.11, as cited in 9 VAC § 262, requires that generators of solid waste, as defined in 40 CFR § 261.2, must make an accurate determination as to whether that waste is hazardous waste in order to ensure wastes are properly managed.
7. 40 CFR § 270.1(c), as cited in 9 VAC § 270, requires that owners and operators of hazardous waste management units, including treatment units as defined in 40 CFR § 261, have active permits.
8. 40 CFR § 262.13, as cited in 9 VAC § 262, requires that hazardous waste generators determine their generator category based on the amount of hazardous waste generated each month, as the category determination may fluctuate in response to monthly-generated amounts of waste.
9. 40 CFR § 262.16, as cited in 9 VAC § 262, requires that SQGs who must transport hazardous waste over a distance of over 200 miles for treatment, storage, or disposal, not accumulate waste on site for over 270 days without a permit.
10. 40 CFR § 262.16(b)(6), as cited in 9 VAC § 262, requires that SQGs label containers with the words "Hazardous Waste," indicate the hazards of the contents, and denote the date with which accumulation began.
11. 40 CFR § 262.15(a)(5), as cited in 9 VAC § 262, requires that satellite accumulation areas must be labeled with the words "Hazardous Waste," and indicate the hazards of the contents.
12. 40 CFR § 262.16(b)(8), as cited in 9 VAC § 262, requires that SQGs must maintain and operate the Facility in a manner to minimize emergencies and releases of hazardous wastes to the environment; this includes making arrangements with local emergency authorities.
13. 40 CFR § 273.13(d)(1), as cited in 9 VAC 20-60-273, requires that a small quantity handler of universal waste must contain waste lamp bulbs in containers that are closed, structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps.
14. 40 CFR § 273.14, as cited in 9 VAC 20-60-273, requires that a small quantity handler of universal waste lamp bulbs must label the universal waste container with phrasing to indicate the contents.
15. 40 CFR § 273.15(c), as cited in 9 VAC 20-60-273, requires that a small quantity handler of universal waste retain a form of record to demonstrate the length of accumulation time for the universal wastes on site.
16. 40 CFR § 273.16, as cited in 9 VAC 20-60-273, requires that small quantity handlers of universal waste must inform all employees who handle universal wastes about proper handling and emergency procedures relevant to the Facility.

17. Following the inspection the Facility reported that it had ceased all waste treatment in the evaporator pending waste determinations, and purchased universal waste lamp boxes for proper storage and recycling. The facility also completed making arrangements with the local fire, police, and hospital, and posted emergency information in appropriate locations throughout the Facility.
18. On April 23, 2019, and on May 22, 2019, Zestron Corporation submitted written responses to the NOV. Waste determination analyses were conducted for the in-line, batch, and stencil wastes, as well as an initial determination for the client sample wastes. The results of these determinations found that only the wastes generated during the stencil cleaning trials and the client sample wastes are potentially hazardous wastes, due to metal content. Zestron initially determined that the client samples were run on non-metallic components (similar to the batch and in-line washes), and that the samples would not be a hazardous waste upon their discard, however has opted to handle and accumulate the client sample waste in the hazardous waste SAA prior to laboratory analysis and final determination. Satellite accumulation areas and in-process cleaning solutions were properly labeled upon reinspection. Additionally, the evaporator had been cleaned out and the two-drums of hazardous waste pending analysis had been generated. Zestron reported to DEQ on April 23, 2019, that the sludge and clean-out samples from the evaporator were determined to be a non-hazardous waste. Further response included corrective actions for cited wastes, including universal waste.
19. DEQ was informed of the sampling and external-laboratory assessments of the customer bath sample waste and the waster-based stencil cleaning waste on September 16, 2019. This notification included the determination that both of the wastes fell below respective TCLP thresholds and were considered to be nonhazardous. DEQ acknowledged these assessment determinations on September 23, 2019.
20. Based on the results of the February 21, 2019, and March 22, 2019, inspections; and the documentation submitted on April 23, 2019, and May 22, 2019, the Board concludes that Zestron Corporation has violated 9VAC § 262, 9 VAC § 270, and 9 VAC 20-60-273 as described in paragraphs C(1) through C(19), above.
21. Zestron Corporation has submitted documentation that verifies, and DEQ staff inspected the Facility on March 22, 2019, to verify, that the violations described in paragraphs C(1) through C(19), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Zestron Corporation, and Zestron Corporation agrees to pay a civil charge of **\$11,840** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Zestron Corporation shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Zestron Corporation shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Zestron Corporation for good cause shown by Zestron Corporation, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Zestron Corporation admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Zestron Corporation consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Zestron Corporation declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Zestron Corporation to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the

Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Zestron Corporation shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Zestron Corporation shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Zestron Corporation shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Zestron Corporation. Nevertheless, Zestron Corporation agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Zestron Corporation has completed all of the requirements of the Order;
 - b. Zestron Corporation petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Zestron Corporation.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Zestron Corporation from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Zestron Corporation and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Zestron Corporation certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Zestron Corporation to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Zestron Corporation.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Zestron Corporation voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2nd day of January, 20 20.



Thomas Faha, Regional Director
Department of Environmental Quality

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Zestron Corporation voluntarily agrees to the issuance of this Order.

Date: 11/4/19 By: Kathleen Pion, Operations Manager
(Person) (Title)
Zestron Corporation

Commonwealth of Virginia
City/County of Prince William

The foregoing document was signed and acknowledged before me this 4 day of
November, 2019, by Kathleen Pion who is
Operations Manager of Zestron Corporation, on behalf of the corporation.

[Signature]
Notary Public

7513102
Registration No.

My commission expires: 10/31/2022

Notary seal:

